I. Introduction

1. In the report of the Secretary-General on the extension of premises of the International Court of Justice and the draft supplementary agreement between the United Nations and the Carnegie Foundation concerning the use of the Peace Palace at The Hague (A/C.5/52/16), it had been concluded that the enlargement of the premises would result in amendments to article II of the Agreement, which sets out the annual contribution payable by the United Nations to the Foundation, and article IV, which describes the accommodations at the Peace Palace made available to the Court.

2. Subsequently, the General Assembly, in section VII of its resolution 52/222 of 22 December 1997, approved the draft supplementary agreement between the United Nations and the Carnegie Foundation concerning the use of the Peace Palace at The Hague (ibid., annex).

3. In accordance with article II of the Supplementary Agreement, the annual contribution is scheduled for review after a period of five years. Upon the request of the Carnegie Foundation, consultations between the United Nations on the review of the contribution of the Foundation had proceeded. An agreement on the terms of a new supplementary agreement was concluded in August 2007. The present report describes the provisions of the agreement reached, and is submitted in accordance with the prevailing procedures for the approval of the General Assembly.

II. Historical background of the agreement

4. The original agreement concluded between the United Nations and the Carnegie Foundation, dated 21 February 1946, was subsequently approved by the General Assembly in its resolution 84 (I) of 11 December 1946 for occupancy of the original premises (formerly occupied by its predecessor, the Permanent Court of International Justice) by the International Court of Justice. It stipulated payment by the Court of an annual contribution of 48,000 Netherlands florins (F.) for the use of certain designated premises in the Peace Palace. That sum was increased to F. 68,400 by the Assembly in its resolution 586 (VI) of 21 December 1951, in which it approved a supplementary agreement in order to offset the devaluation of the guilder. Subsequently, another supplementary agreement was approved by the Assembly under the terms of resolution 1343 (XIII) of 13 December 1958, by which the annual contribution was increased to F. 100,000 as a result of increased costs of maintenance of the Peace Palace.

5. The last change to the Supplementary Agreement was approved by the General Assembly in its resolution 52/222, increasing the annual contribution to F. 1,843,582 net. This adjustment to the annual contribution reflects, in part, the additional operating cost of the enlarged premises put at the disposal of the Court. Based on this Supplementary Agreement, the contribution has been adjusted annually by inflation. Accordingly, the amount had been adjusted over the period 1997 through 2005 to 1,019,662 euros (€).

III. Proposed changes to the existing agreement

A. Article II

6. Based on the recently concluded consultations between the two organizations, an amendment to article II of the Supplementary Agreement, which establishes the annual contribution payable by the United Nations to the Carnegie Foundation for premises occupied by the Court in the Peace Palace, is proposed, reflecting a change in the amount stated therein to €1,152,218 net representing a 13 per cent increase over the 2005 annual contribution.

7. The significant change reflects the analysis of major operating costs and the conclusion that the costs of three components, namely security operations, cleaning and utilities, increased at a rate greater than the inflation adjustments applicable to the annual contribution since its revision in 1997. It was agreed that the base amount will continue to be subject to annual increases relating only to inflation, and will be reviewed after a period of five years from the date of commencement.

B. Article IV

8. Regarding article IV of the Supplementary Agreement, the following provisions have been agreed between the United Nations and the Carnegie Foundation and are proposed to be included:

(a) The percentage of space from the Peace Palace allocated to the International Court of Justice has been determined at 50.06 per cent, at the outset of the term of the revised Supplementary Agreement;

(b) The detailed space allocation is included in article IV of the Supplementary Agreement. In this respect article IV of the Supplementary Agreement shall refer to a detailed schedule of space occupied by the International Court of Justice at the time of agreement;

(c) Any requests for modification of area occupied (either increase or decrease) would be processed through a formal exchange of letters involving a request, offer and acceptance procedures;

(d) Once a modification has been agreed, the table of occupied area would be modified to reflect the change;

(e) Any changes in the area occupied by the International Court of Justice during the term of the agreement (increase or decrease) will be assessed according to the base amount (expense per square metre);

(f) The implementation of overall security arrangements is the responsibility of the Carnegie Foundation and the operational costs shared on a pro rata basis;

(g) Capital investments and special projects (e.g. additional security required for an event) shall be accounted for separately from general expenses and charged directly to the organization responsible;

(h) For purposes of the supplementary agreement, the area and operating expenses for the new Academy Building have been excluded. The Carnegie

Foundation will ensure the operating expenses related to the new building are maintained separately and specifically identified in subsequent financial statements.

IV. Effective date of implementation

9. The draft supplementary agreement reflecting the proposed changes is contained in the annex to the present report.

10. As part of the consultations between the United Nations and the Carnegie Foundation, and given the lapse of time between the proposed date of the five-year review in 2002 to the conclusion of the negotiations, it has been agreed that the new agreement will take effect 1 July 2006. The Foundation has been informed that the changes to the Agreement as contained in the present report are subject to the approval of the General Assembly.

V. Financial implications for the bienniums 2006-2007 and 2008-2009

11. The proposed revision to the annual contribution contained in article II of the draft supplementary agreement would result in additional requirements estimated at $251,200 and $552,000, under section 7, International Court of Justice, of the programme budget for the biennium 2006-2007, and the proposed programme budget for the biennium 2008-2009, respectively. It is proposed that the requirements for the current biennium would be reflected in the second performance report of the programme budget for the biennium 2006-2007. As for the biennium 2008-2009, the estimated requirement of $552,000 would be considered in the context of the recosting of the proposed programme budget for the biennium 2008-2009 prior to determination of the initial appropriations to be approved by the General Assembly in December 2007.

VI. Action to be taken by the General Assembly

12. **The General Assembly is requested to:**

(a) Approve the amendments to the Supplementary Agreement as contained in the annex to the present report;

(b) Take note that the additional requirements resulting from the revised annual contribution from the United Nations to the Carnegie Foundation for the use of the Peace Palace by the International Court of Justice at The Hague would be reflected in the second performance report of the programme budget for the biennium 2006-2007;

(c) Take note that the requirements for the biennium 2008-2009 would be considered in the context of the recosting of the proposed programme budget for the biennium 2008-2009 prior to determination of the initial appropriations to be approved by the General Assembly in December 2007.

Annex

Draft supplementary agreement between the United Nations and the Carnegie Foundation concerning the use of the Peace Palace at The Hague

1. The United Nations and the Carnegie Foundation hereby agree that article II of the Agreement between the United Nations and the Carnegie Foundation concerning the use of the premises of the Peace Palace at The Hague, as contained in annex A to General Assembly resolution 84 (I) of 11 December 1946, as amended by the supplementary agreements contained in the annexes to Assembly resolutions 586 (VI) of 21 December 1951 and 1343 (XIII) of 13 December 1958, and article IV shall be amended to read as follows:

Article II

The annual contribution payable by the International Court of Justice in respect of the use of the Peace Palace is hereby fixed at 1,152,218 euros, subject to annual increases relating only to inflation. This base amount will be subject to review after a period of five years from the date of commencement.

Article IV

The Court shall, in addition to the judges' wing, have the permanent and exclusive use of the following rooms: No. 6, 7, 8, 9, 10, 11, 12, 13, 19, 50, 51, 56, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 308, 310, 405, 410, 411, 413, 414, 415, 416, 417, 418, 419, 421, 425, 426, 427, 428, 429, 430, 431, 433, 434, 435, 437, 439, 441, 442, 443, 444, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461 and archive spaces No. 302, 303, 305, 306, 307, 308, 310, 401, 402, 403, 404 and 405.

Whilst the Court and its Chambers are in session, the Court shall have the use of the Great Court Room (No. 2) with the antechamber (No. 3) as well as of rooms No. 1, 5 and 25. On days on which the Court is not meeting in public, the said premises may be used by other institutions.

The Court shall be entitled to the joint use of all the other premises of the Palace necessary for its work, in accordance with agreements to be concluded in each particular case with the Foundation.

Members of the Court and its officials shall enjoy on the same footing as the other members and officials of the other institutions occupying the Peace Palace:

1. The entrances and exits, vestibules, corridors and stairways;
2. The cloak-rooms and lavatories adjacent to the premises occupied;
3. The lifts and similar parts of the Palace intended for general use.

Any changes in the area occupied by the International Court of Justice during the term of the agreement (increase or decrease) will be assessed according to the base amount (expense per square metre).

The implementation of overall security arrangements is the responsibility of the Carnegie Foundation and the operational costs shared on a pro rata basis.

Capital investments and special projects shall be accounted for separately from general expenses and charged directly to the organization responsible.

The percentage of space allocated to the International Court of Justice has been determined at 50.06 per cent, at the outset of the term of this Agreement.

For purposes of the Supplementary Agreement, the area and operating expenses for the new Academy Building have been excluded. The Carnegie Foundation will ensure the operating expenses related to the new building are maintained separately and specifically identified in subsequent financial statements.

2. This Supplementary Agreement shall enter into force on 1 July 2006.